

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution-General, and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Medical Review Division regarding a medical fee dispute between the requestor and the respondent named above.

I. DISPUTE

1. a. Whether there should be additional reimbursement for date of service 01/10/01?
- b. The request was received on 01/07/02.

II. EXHIBITS

1. Requestor, Exhibit 1:
 - a. TWCC 60 and Letter Requesting Dispute Resolution dated 03/15/01
 - b. HCFA's
 - c. EOB
 - d. Extended list of reimbursements from other carriers
 - e. Medical Records
 - f. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
2. Respondent, Exhibit 2:
 - a. TWCC 60 and Response to a Request for Dispute Resolution dated 04/26/02
 - b. HCFA's
 - c. Audit summaries/EOB
 - d. Medical Records
 - e. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
3. Per Rule 133.307 (g) (3), the Division forwarded a copy of the requestor's 14 day response to the insurance carrier on 04/18/02. Per Rule 133.307 (g) (4) or (5), the carrier representative signed for the copy on 04/23/02. The response from the insurance carrier was received in the Division on 04/26/02. Based on 133.307 (i) the insurance carrier's response is timely.
4. Notice of Medical Dispute is reflected as Exhibit #3 of the Commission's case file.

III. PARTIES' POSITIONS

1. Requestor:

- a. The Provider... “charges the above-referenced services at a fair and reasonable rate. Specifically, these rates are based upon a comparison of charges to other Carriers and the amount of reimbursement received for these same or similar services.” The provider is seeking additional reimbursement in the amount of \$12,221.22 for the date of service 01/10/01.

2. Respondent:

- a. “It is the Respondent’s position that the Requestor was paid more than a fair and reasonable amount as determined in accordance with the criteria for payment under the *ACT*. Specifically, the amount paid by the Respondent was more than that which would be allowed under Medicare. Furthermore, Requestor is billing for services which they have not documented actual time used in the Operating Room or Recovery. However, Respondent has paid Requestor \$1,118.00 which is the same amount that a full service hospital would be paid for its facility charges associated with a spinal surgery and a one-day inpatient hospitalization or 24 hours. Such billing is utterly excessive and violates the cost containment policies of the Act and the Commission.” The carrier denies additional reimbursement as M-“IN TEXAS, OUTPATIENT SERVICES ARE TO BE PAID AS FAIR AND REASONABLE.”

IV. FINDINGS

1. Based on Commission Rule 133.307(d) (1) (2), the only date of service eligible for review is 01/10/01.
2. The provider billed \$13,169.94 for date of service 01/10/01.
3. The carrier paid \$1,118.00 for date of service 01/10/01.
4. The amount in dispute is \$12,221.22 for date of service 01/10/01.

V. RATIONALE

Medical Review Division's rationale:

The medical documentation indicates the services were performed at an ambulatory surgery center. Commission Rule 134.401 (a)(4) states ASCs, “shall be reimbursed at a fair and reasonable rate...”

Section 413.011 (d) of the Texas Labor Code states, “Guidelines for medical services must be fair and reasonable and designed to ensure the quality of medical care and to achieve effective

medical cost control. The guidelines may not provide for payment of a fee in excess of the fees charged for similar treatment of an injured individual of an equivalent standard of living and paid by that individual or by someone acting on that individual's behalf. The Commission shall consider the increased security of payment afforded by this subtitle in establishing the fee guidelines."

The provider has submitted reimbursement data to document what they consider fair and reasonable reimbursement. The provider has submitted EOBs from other carriers, these indicate that the provider has accepted from 84% to 100% of the billed amount as fair and reasonable reimbursement. The prevailing ICD-9 code on these EOBs is 724.2, which is the same as the date of service in dispute. The provider's documentation does provide some evidence of fair and reasonable reimbursement.

The Carrier has also submitted reimbursement data to document what they consider fair and reasonable reimbursement, and to comply with Commission Rule 133.304 (i)(1-4). The carrier compares the amount of reimbursement the provider received with the amount of reimbursement the Medical Fee Guidelines allow a hospital for inpatient surgery. The carrier also compares their reimbursement with that allowed by Medicare. The carrier has submitted their methodology and though, the entire methodology may not necessarily be concurred in by the Medical Review Division, the requirements of the referenced Rule have been met.

Due to the fact that there is no current fee guideline for ASCs, the Medical Review Division has to determine based on the parties' submission of information, which party has provided the more persuasive evidence. Both parties to the dispute have submitted documentation in support of their position. However, the carrier's documentation is more persuasive and meets the requirement of Sec. 413.011(d) of the Texas Labor Code, "to achieve effective medical cost control." Therefore, **no** additional reimbursement is recommended.

The above Findings and Decision are hereby issued this 21st day of May, 2002.

Michael Bucklin, LVN
Medical Dispute Resolution Officer
Medical Review Division

MB/mb

This document is signed under the authority delegated to me by Richard Reynolds, Executive Director, pursuant to the Texas Workers' Compensation Act, Texas Labor Code Sections 402.041 - 402.042 and re-delegated by Virginia May, Deputy Executive Director.